

Message Text

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ACTION EB-07

INFO OCT-01 EA-07 IO-13 ISO-00 SSO-00 NSCE-00 USIE-00

INRE-00 AGRE-00 CEA-01 CIAE-00 COME-00 DODE-00 FRB-03

H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01

AID-05 CIEP-01 SS-15 STR-04 ITC-01 TRSE-00 PRS-01

SP-02 FEAE-00 OMB-01 XMB-02 OPIC-03 AF-08 ARA-06

EUR-12 NEA-10 OIC-02 /132 W
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FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 3403

INFO AMEMBASSY JAKARTA

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EB/OT/GCP FOR LANDERS

E.O. 11652: N/A

TAGS: GATT, ETRD, ID

SUBJ: INDONESIAN WAIVER REQUEST

REF: STATE 272133

1. HAVE HAD LONG THOROUGH SESSIONS WITH INDONESIANS AND GATT SECRETARIAT AFTER RECEIPT REFTEL. BELIEVE WE HAVE WORKED OUT A FORMULATION WHICH RECOGNIZES UNIQUENESS OF INDONESIAN PREDICAMENT WITHOUT RISKING PROLIFERATION OF SIMILAR WAIVERS.

2. INDONESIANS ARE NOT RENEGOTIATING THEIR OWN PAST CONCESSIONS, AND THIS IS THEREFORE NOT ARTICLE XXVIII RENEGOTIATION. THEY AND GATT SECRETARIAT (AND PRESUMABLY US) ARE SIMPLY UNABLE IDENTIFY THE JUMBLE OF DUTCH-
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NEGOTIATED BINDINGS HANDED DOWN TO INDONESIA THROUGH

THE PROCESS OF INDEPENDENCE AND PREVIOUS NOMENCLATURE CHANGES. THEY, WE AND SECRETARIAT SEE NO ALTERNATIVE TO STARTING FROM SCRATCH. FOLLOWING COMMENTS ARE KEYED TO ITEMS AS NOTED IN PARAGRAPH TWO OF REFTEL:

A AND C) WORDING OF REFERENCE TO ARTICLE XXVIII WILL NOT STATE THAT "FORMAL REQUIREMENTS OF ARTICLE XXVIII APPLY", BUT RATHER WILL STATE TAHT "GENERAL PRINCIPLES OF ARTICLE XXVIII WILL APPLY."

B) WASHINGTON SUGGESTION HAS BEEN ADOPTED IN FULL.

D) INDONESIANS HAVE STRONGLY RESISTED INSERTION OF THIS PARAGRAPH. WE HAVE EQUALLY STRONGLY INSISTED UPON ITS INSERTION (I. E., INSERTION OF PARAGRAPH 4 OF THE CURRENT INDONESIAN WAIVER). WE TOLD INDONESIANS THAT PRECEDENT OF THIS WAIVER IS OF OVERRIDING IMPORTANCE. TO BREAK IMPASSE THE SECRETARIAT (WHICH AGREES WITH U.S. ON NEED FOR THIS PARAGRAPH) SUGGESTED THAT U.S. BE PREPARED TO MAKE A STATEMENT AT NOVEMBER 12 GATT COUNCIL TO THE EFFECT THAT WE VIEW INCLUSION OF THIS PARAGRAPH OF FUNDAMENTAL IMPORTANCE BUT DUE TO UNIQUENESS OF INDONESIAN CIRCUMSTANCES WE FEEL IT HAS NO PARTICULAR SIGNIFICANCE FOR INDONESIA. THUS, PARAGRAPH WOULD REMAIN IN ITS ENTIRETY, BUT COUNCIL RECORD WOULD SHOW THAT IT UNLIKELY THAT U.S. WOULD INVOKE SAME IN SPECIAL CASE OF INDONESIA. WE STRONGLY URGE THAT WASHINGTON ACCEPT THIS FORMULATION, WHICH WE VIEW AS REALISTIC IN THE CIRCUMSTANCES AND AS PRESERVING THE INTEGRITY OF THE GATT. IN THIS RESPECT, IT SHOULD BE NOTED THAT WHILE U.S. DISINCLINATION APPLY THIS PROVISION AGAINST INDONESIA IS CARRIED IN COUNCIL RECORD, REPRODUCTION OF WAIVER AS WILL APPEAR IN GATT BISD SERIES WILL NOT REFLECT THIS RESERVATION. SECRETARIAT IS WITHHOLDING CIRCULATION OF DRAFT WAIVER UNTIL MONDAY, NOVEMBER 8 GENEVA TIME. IF U.S. CAN GIVE INDONESIA ASSURANCE THAT WE WILL MAKE COUNCIL STATEMENT, INDONESIA WILL AUTHORIZE CIRCULATION OF DRAFT WAIVER WITH THIS PARAGRAPH INTACT.

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E, G AND H) THESE CHANGES WOULD NOT BE MADE, AS CHANGES IN A, C ABOVE REQUIRE THAT WORDING IN PROPOSED DRAFT WAIVER BE MENTIONED. THIS THEREFORE RETAINS RIGHTS WHICH WE PRESUMABLY WILL WANT HOLD ONTO.

F) ACCEPTED.

3. REFERENCE IN PARAGRAPH 2, LIMITING CONCESSIONS AND

WITHDRAWALS TO PRE-MTN TIMEFRAME REMAINS. GATT SECRETARIAT POINTS OUT THAT U.S. WOULD HAVE NO LEGAL AUTHORITY MAKE WITHDRAWALS AGAINST FUTURE CONCESSIONS. WE AGREE, AS DOES MTN DEL. EC, JAPAN, AND ALL OTHER GENEVA DELS APPEAR SATISFIED WITH DRAFT INDONESIA WAIVER, INCLUDING AS MODIFIED ABOVE.

4. URGENTLY REQUEST APPROVAL OF ABOVE CHANGES, PARTICULARLY WITH RESPECT TO COUNCIL STATEMENT, TO LEAVE WASHINGTON COB TODAY, NOVEMBER 5. CATTO

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Message Attributes

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